

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)	
)	
DAWN MARIE VANAMAN)	Case No. 05-63154 JPK
)	Chapter 13
Debtor.)	

ORDER DENYING MOTION TO RECONSIDER ORDER OF DISMISSAL

On January 5, 2006, the Court entered an order dismissing the debtor's Chapter 13 case due to material default with respect to payments to be made by the debtor to the Chapter 13 Trustee for implementation of her proposed plan. On January 11, 2006, the debtor, by counsel, filed a Motion to Reconsider Order of Dismissal, which was noticed by the debtor to all creditors and parties in interest, and with respect to which no creditor or party in interest filed an objection.

The debtor's motion asserts that the debtor has provided her attorney with \$5,040.00 to bring her Chapter 13 plan current, which the Court takes to mean that said amount represents the amount necessary to cause the debtor to comply with the provisions of her plan with respect to payments which the plan proposed would have been made to the Chapter 13 Trustee. However, the motion does not state any reason for the debtor's failure to make payments to the Chapter 13 Trustee in advance of the dismissal of her case, or any ground upon which the basis for the Court's dismissal order may be challenged. The motion states in essence that after dismissal of the case, the debtor was able to obtain funds necessary to provide for the payments to the Chapter 13 Trustee which should have been made prior to the dismissal of her case. There is no evidence in the record that the debtor sought to bring her attempt to obtain funds to the attention of the Court and the Trustee in advance of the dismissal of the case.

The Court understands that many times debtors are unable to make payments to the Chapter 13 Trustee in the amount and at the time required by their proposed plan. However, in

this Division of the United States Bankruptcy Court for the Northern District of Indiana, debtors are given ample opportunity to cure defaults before the Chapter 13 Trustee files a motion to dismiss, and an additional window period for curing the default is provided by the time period between the filing of the motion to dismiss and the scheduled hearing on that motion. In the instant case, despite the latitude given to the debtor, no arrangements were made with the Chapter 13 Trustee for cure of the default prior to the dismissal hearing. A motion to set aside an order of dismissal must state grounds that potentially establish that at the time the order was entered, circumstances existed which caused the order to be erroneous for some reason. This motion, and others like it, simply states that after the order of dismissal was entered, the debtor was able to obtain funds which would allow her to become current with the Chapter 13 Trustee. The motion therefore states no grounds which indicate that at the time the order was entered, the debtor had any valid basis upon which to challenge the grounds asserted by the Trustee with respect to dismissal of her case.

IT IS ORDERED that the debtor's Motion to Reconsider Order of Dismissal is DENIED.

Dated at Hammond, Indiana on March 14, 2006.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:

Debtor, Attorney for Debtor
Trustee, U.S. Trustee